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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,267	03/19/2002	Fernando Zocchi	118.010US01	1264

7590 02/25/2004  
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EXAMINER
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WILLS, MONIQUE M

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b> 09/980,267	<b>Applicant(s)</b> ZOCCHI, FERNANDO	
	<b>Examiner</b> Wills M Monique	<b>Art Unit</b> 1746	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 March 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Priority*

Italian foreign priority document(s) RM99A000355, filed July 3, 1999 and submitted under 35 U.S.C. 119(a)-(d), has/have been received and placed of record in the file.

### *Claim Objections*

Claim 1 is objected to because of the following informalities: "ionized" is misspelled. Appropriate correction is required.

Claims 5 & 7-9 are objected to because of the following informalities: "sulfuric" is misspelled. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "Dow Corning DC 710" is of uncertain meaning rendering the claims vague and indefinite. What type of material is Dow Corning DC 710? What is the density? Is the term an industry standard or a trademark?

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In the event that "Dow Corning DC 710" is a trademark, where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe material and, accordingly, the identification/description is indefinite.

With respect to claims 5 & 7-9, the term "lead/sulfuric acid type" is of uncertain meaning, rendering the claims vague and indefinite. The addition of the word "type" to an otherwise definite expression (e.g., Friedel - Crafts catalyst) extends the scope of the expression so as to render it indefinite. *Ex parte Copenhaver*, 109 USPQ 118 (Bd. App. 1955). Likewise, the phrase "ZSM - 5-type aluminosilicate zeolites" was held to be indefinite because it was unclear what "type" was intended to convey. The interpretation was made more difficult by the fact that the zeolites defined in the dependent claims were not within the genus of the type of zeolites defined in the independent claim. *Ex parte Attig*, 7 USPQ2d 1092 (Bd. Pat. App. & Inter. 1986).

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Feezor.

Feezor teaches an underwater rechargeable battery (abstract). With respect to claim 1, Feezor teaches a lead acid battery comprising a plurality of series connected elements (50) contained in casing 120 (Figs. 6 & 7); each element (50) has a positive electrode (54) and a negative electrode (52) in a liquid electrolyte (58) (Fig. 6; col. 5, lines 20-35); each element (50) is provided with an aperture (62) communicating with the external environment (Fig. 6; col. 9, lines 40-55); each element (50) has a liquid separating means (60) in contact with the electrolyte (Fig. 6); and pressure-compensation fluid (60) including silicone oil (col. 6, lines 25-30; col.12, lines 30-45). With respect to claim 2, element (50) is a cell unit (col. 11, line 1). Regarding claim 3, the cell has an individual communication element comprising an expansion chamber (66) and chokes (not labeled) circumscribing spring 72 (Figs. 3 & 3A; col. 9, line 45 through col. 10, line 15). More specifically, the chokes form vent (70) and supports ball (74). See Figs. 4 & 4A. Concerning claims 5 & 7-9, the cell units are lead/sulfuric acid batteries (col. 9, lines 1-5). With respect to claim 4, through-leads 112 are insulated with tubing 114 and connect the battery to load (118). See Figure 6 and column 11,

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lines 1-15. The prior art of Feezor anticipates the instant claims as set forth. The limitations in claim 1, with respect to the separating liquid being non-ionized, insoluble and non-reactive with respect to the electrolyte, fresh water or salt water, is considered to be an inherent property of silicone oil as set forth in the prior art, because Feezor employs the same separating liquid set forth by Applicant. The limitations in claim 1, with respect to silicone oil having a density equivalent to Dow Corning DC 710, is considered to be an inherent property of silicone oil as set forth in the prior art, because Feezor employs the same separating liquid set forth by Applicant.

### *Conclusions*

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Monique Wills whose telephone number is (571) 272-1309. The Examiner can normally be reached on Monday-Friday from 8:30am to 5:00 pm.

If attempts to reach Examiner by telephone are unsuccessful, the Examiner's supervisor, Randy Gulakowski, may be reached at 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mw

02/13/04

*Bruce Bell*  
BRUCE F. BELL  
PRIMARY EXAMINER  
GROUP 1746